



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

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November 26, 2019

Via Electronic Mail

William Fernandes
MuckRock News
DEPT MR 82808
411A Highland Avenue
Somerville, MA 02144
82808-00049602@requests.muckrock.com

RE: Public Records Request

Dear Mr. Fernandes:

On November 4, 2019, the Massachusetts Department of Public Utilities ("Department") received your public records request dated November 1, 2019, seeking records relating to Transportation Network Companies ("TNC") as follows: (1) number of TNC background appeals entered for the dates October 28, 2019 to November 1, 2019 ("Item 1"); (2) number of times e-mail correspondence was sent from the massdpu.com e-mail server using the mask: donotreply@massdpu.com ("Item 2"); (3) number of appeals received as well as resolved or subject to adjudication during the time period specified ("Item 3"); (4) copies of all e-mails sent and received to the e-mail account: dputncappeal@state.ma.us for the time period specified in Item 1 ("Item 4"); and (5) copies of all e-mails sent and received to the e-mail account: dputncquestions@state.ma.us for the time period specified in Item 1 ("Item 5").

On November 21, 2019, the Department sent you a fee estimate letter, noted that a charge of \$1,400 is necessary to process your request, and stated:

There are approximately 1,200 pages of information and the Department estimates, conservatively and in good faith based on past experience, that we will expend an average of three minutes to review each page for a total of 3,600 minutes, or 60 hours. Accordingly, the good-faith estimate of \$1,400 is derived as follows: 60 hours minus the first four hours equals 56 hours, at a rate of \$25/hour, which represents the lowest hourly rate of a person capable of compiling, segregating and redacting these records.¹

To proceed with production, the Department (1) asked you to remit a payment of \$1,400 payable to the Commonwealth of Massachusetts, and (2) stated that once payment is received, we will complete the steps necessary to process production.

By email dated November 22, 2019, you (1) stated that your November 4, 2019 request “is a follow up to a previous request,” (2) noted that in the previous request the Department waived its record production fee, and (3) asked the Department to reconsider and waive the \$1,400 fee estimate. In support of your request, you included a copy of the Department’s September 6, 2016 letter to Adam Vaccaro (attached) acknowledging his public records request, and stating that the Department would provide an update on its compilation of responsive records. By letter dated October 27, 2016 to Mr. Vaccaro (attached), the Department provided its response to the public records request, and stated:

Department staff has spent more than 10 hours compiling and reviewing documents related to this request. In the particular circumstances of this matter, pursuant to your request for a fee waiver and along with your supporting indication that your request will not result in commercial gain and would benefit the public interest, the Department is waiving its right to recover the costs of compiling this information. However, in the future the Department may charge for any subsequent, time intensive requests based in accordance with governing law and policy.

As noted in the Department’s November 21, 2019 correspondence, the scope of your public records request consists of approximately 1,200 pages of information, which will take the Department approximately 60 hours to process. This is substantially more than the ten-hour estimate noted in the Department’s October 27, 2016 letter to Mr. Vaccaro. The Department considers your request to be time intensive and declines to waive its estimated fee. If you want the Department to proceed with production of your request, please remit

¹ Record custodian may charge up to \$25 per hour for every hour of actual work preparing documents in excess of four hours. G.L. c. 66, § 10(d); 950 CMR 32.07(2).

payment of \$1,400 payable to the Commonwealth of Massachusetts. Once payment is received, the Department will complete the steps necessary to process your request.

Any person denied access to public records may appeal to the Supervisor of Public Records ("Supervisor") within ninety (90) days and has the right to seek judicial review of an unfavorable decision by commencing a civil action in superior court pursuant to G.L. c. 66, §§ 10A(a), 10A(c). An appeal to the Supervisor shall be in writing, shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. G.L. c. 66, § 10A(a); 950 CMR 32.08.

Sincerely,

/s/

Jeffrey M. Leupold
Legal Division

Attachments